

Edwards, Francis, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McLeary, Moore, Motley, Piner—20.

Senator Thompson moved to adjourn until 8 o'clock P. M.

Senator Edwards raised the point of order that the motion was out of order.

The point of order sustained by the chair.

Senator Smith offered the following amendment:

Add to Section 1, the words: "By virtue of the lapse of time between the adoption of the present Constitution and the expiration of the thirty days after the adjournment of the present session of the Legislature."

Senator Piner moved the previous question on the amendment and the engrossment of the bill.

Seconded, and the main question ordered, by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Douglass, Edwards, Francis, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McCulloch, Moore, Piner, Ripetoe, Smith, Stephens, Storey, Thompson, Wortham—21.

NAYS—Senators Brown, Crain, Ford, Grace, McLeary, McCormick, Motley, Terrell—8.

NOT VOTING—Senator Burton—1.

Senator Smith's amendment was then lost by the following vote:

YEAS—Senators Brown, Burton, Crain, Ford, McLeary, McCormick, Motley, Smith, Stephens, Storey, Terrell, Thompson—12.

NAYS—Senators Ball, Blassingame, Brady, Douglass, Edwards, Francis, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McCulloch, Moore, Piner, Ripetoe, Wortham—18.

The bill was then ordered engrossed by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Douglass, Edwards, Francis, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, Moore, Piner, Ripetoe, Wortham—17.

NAYS—Senators Burton, Crain, Ford, Grace, McLeary, McCormick, McCulloch, Motley, Smith, Storey, Stephens, Terrell, Thompson—13.

On motion of Senator Terrell, the Senate adjourned until to-morrow, at 9 o'clock, A. M., by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Francis, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McCormick, Ripetoe, Smith, Stephens, Storey, Terrell, Wortham—19.

NAYS—Senators Burton, Crain, Douglass, Edwards, McLeary, McCulloch, Moore, Motley, Piner, Thompson—10.

## EIGHTY-FIRST DAY.

SENATE CHAMBER,  
AUSTIN, TEXAS, July 22, 1876. }

Senate met pursuant to adjournment. President in the chair. Roll called. Quorum present. Prayer by the Chaplain.

Journal of yesterday adopted.

A message was received from the House, announcing the passage by that body of the following bills:

House Bill No. 412—"An Act making an appropriation for deficiencies for the fiscal year, beginning September 1, 1875, and ending August 31, 1876, and previous years."

House Bill No. 364—"An Act to define the duties of persons subject

to taxation by the laws of this State, and to fix penalties for the violation of the same."

House substitute for House Bill No. 77—"An Act to define the duties, powers, rights, and qualifications and liabilities of Assessors of Taxes, and to regulate their compensation."

House Joint Resolution No. 395—"Whereas, General G. A. Custer has endeared himself to the people of the frontier of Texas and elsewhere, by his bold and dashing operations against the Indians; therefore," etc.

Senate Bill No. 323—"An Act to transfer certain suits pending in the courts of the counties of this State out of which new counties have been created, to the new counties so created."

Senate Bill No. 343—"An Act to amend an act entitled, 'An Act for the protection of the wool-growing interest of the State.'" Approved May 2, 1874.

Substitute for Senate Bill No. 17—"An Act to provide for revising, digesting and publishing the laws, civil and criminal, of the State of Texas."

Senate Bill No. 285—"An Act to fix the times for holding the terms of the District Court for the Seventeenth Judicial District, including the county of McCulloch." \*

Senate Bill No. 299—"An Act to provide for the detection and conviction of all forgers of land titles."

Senator Storey, from Judiciary Committee No. 1, submitted the following reports:

*Hon. R. B. Hubbard, President of the Senate :*

Your Judiciary Committee No. 1, to whom was referred Senate Bill No. 364, entitled, "An Act to provide for the prosecution of appeals and writs of error from certain civil suits decided in the District Courts of this State," have had the same under consideration, and beg leave to report it back and recommend that it do pass.

STOREY, *for Committee.*

*Hon. R. B. Hubbard, President of the Senate :*

Your Judiciary Committee No. 1, to whom was referred House Bill No. 403, entitled, "An Act to provide for the election of a District Attorney in the First Judicial District of the State of Texas," have had the same under consideration, and beg leave to report it back with the accompanying amendments, and, as amended, recommend that it do pass.

STOREY, *for Committee.*

Amend the caption of the bill by inserting, after the word, "first," in line 2, the words, "twelfth, seventeenth, twentieth and twenty-fourth."

Add the letter, "s," to the word, "district," in same line.

Insert, after the word, "first," in Section 1, line 3, the words, "twelfth, seventeenth, twentieth and twenty-fourth."

Add the letter, "s," to the word, "district."

Insert, after the word, "first," in Section 2, line 3, the words, "twelfth, seventeenth, twentieth and twenty-fourth."

Add the letter, "s," to the word, "district," in Section 2, line 3.

Add to Section 3 the words, "and therefore it is so enacted."

*Hon. R. B. Hubbard, President of the Senate :*

Your Judiciary Committee No. 1, to whom was referred Senate Bill

No. 350, entitled, "An Act to provide for the time of holding the terms of the District Courts in the Sixth Judicial District of the State of Texas," have had the same under consideration, and beg leave to report it back and recommend that it do pass.

STOREY, *for Committee.*

Also, as Chairman of the Committee on Finance, he submitted the following reports :

*Hon. R. B. Hubbard, President of the Senate :*

Your Committee on Finance, to whom was referred Senate Bill No. 341, entitled, "An Act to exempt the persons and property of Indianola from payment of certain taxes," have had the same under consideration, and beg leave to report it back, and recommend that it do pass.

STOREY, *Chairman.*

*Hon. R. B. Hubbard, President of the Senate :*

Your Committee on Finance have had under consideration Senate Bill No. 360, entitled, "An Act for the protection of the public revenues," and I am instructed to return the bill to the Senate, and recommend that it do not pass, as it is believed that the laws in force and the tax bill now under consideration, and to be perfected at this session of the Legislature, will amply protect the revenues of the State and county.

STOREY, *Chairman.*

*Hon. R. B. Hubbard, President of the Senate :*

Your Judiciary Committee No. 1, to whom was referred House Bill No. 69, entitled, "An Act to provide for the election of Justices of the Peace, and to define their powers and jurisdiction," have had the same under consideration, and beg leave to report it back with the accompanying amendments, and, as amended, recommend that it do pass.

STOREY, *for Committee.*

In Section 3, line 2, after the word, "exercise," strike out all down to and including the word, "dollars," and insert the following, "original concurrent jurisdiction with other courts in all cases arising under the laws of this State, except misdemeanors involving official misconduct, in which the punishment shall be by fine, and the maximum does not exceed two hundred," and in line 30 before "scire facias," insert, "writ of."

Amend Section 4, line 79, after the word, "premises," by inserting the following, "and damages at the rate of five dollars per day for every day, after the notice in writing has been served on the defendant: *provided*, this shall not deprive the plaintiff of a suit to recover rents and other damages."

Amend Section 5, line 38, by inserting before the word, "delivered," the words, "directed and."

Amend Section 8, by inserting in line 16, after the word, "resides," the words, "or whose cause of action or a part thereof accrued, or if the suit is for a tort in the precinct in which the defendant resides, or in which the injury was inflicted."

In Section 9, line 4, strike out the words, "some other," and insert the letter, "a;" also, insert in same section and line, after the word, "peace," the words, "at the county seat, unless he is similarly disqualified, in which event it shall be to the nearest Justice of the Peace."

In Section 10, line 35, strike out the word, "some," and insert the letter, "a."

In line 36, after the word, "court," insert, "named in said citation."

In line 39, strike out the words, "at some," and insert the words, "to the."

After the word, "court," line 40, insert the words, "therein named."

In Section 12, line 49, strike out the word, "two," and insert the word, "three."

In Section 18, line 43, after the word, "may," insert the words, "upon motion of the defendant, his agent, or attorney."

In Section 19, line two, strike out the word, "when," and insert the word, "upon;" same line, after the word, "cause," insert the word, "being."

In Section 21, line 13, after the word, "costs," insert the words, "except in actions of forcible entry and detainer, and forcible detainer, in which actions, appeals shall be allowed without regard to the amount of the judgment."

In line 41, after the word, "court," strike out the balance of the section.

In Section 35, line 8, after the word, "fine," strike out balance of the section.

In Section 13, line 28, after the word, "all," strike out the word, "trial," and insert, "cases civil and criminal."

In Section 36, line 5, strike out all after the word, "costs."

Senator Douglass, Chairman of the Committee on Internal Improvements, submitted the following reports:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Internal Improvements have had under consideration Senate Bill No. 358, to be entitled, "An Act for the relief of the Aransas Road Company," and instruct me to report the same back and recommend its passage.

DOUGLASS, *Chairman.*

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Internal Improvements have had under consideration Senate Bill No. 355, to be entitled, "An Act for the relief of the Sherman, Tyler and Henderson Railroad Company," and instruct me to report the same back, and recommend its passage.

DOUGLASS, *Chairman.*

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Internal Improvements, to whom was referred Senate Bill No. 249, "An Act to amend Section 4 of an act amendatory to and supplementary of an act entitled, 'An Act to organize and incorporate the East Line and Red River Railroad Company,' approved March 27, 1871, and, 'To aid in the construction of the said railroad,' approved May 22, 1873," have had the same under consideration, and recommend that it do pass.

DOUGLASS, *Chairman.*

Senator Francis, Chairman of the Committee on State Asylums, submitted the following reports:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on State Asylums, to whom was referred House Bill No. 402, "An Act to provide for furnishing certain supplies herein named



to the Lunatic, Deaf and Dumb, and Blind Asylums," have had the same under consideration, and report it back to the Senate, and recommend its passage.

FRANCIS, *Chairman.*

*Hon. R. B. Hubbard, President of the Senate :*

Your Committee on State Asylums, to whom was referred Senate Bill No. 342, "An Act to better define the duties and powers of the Superintendent, Steward and Board of Managers of the Lunatic, Deaf and Dumb, and Blind Asylums of the State of Texas," have had the same under consideration, and recommend its passage.

FRANCIS, *Chairman.*

Senator McLeary, Chairman of Committee on State Affairs, submitted the following report :

*Hon. R. B. Hubbard, President of the Senate :*

A majority of your Committee on State Affairs, to whom was referred House Joint Resolution No. 382, "An Act to encourage immigration," have had the same under consideration, and instruct me to report it back to the Senate and recommend its passage.

McLEARY, *Chairman.*

Senator F. M. Henry, from Judiciary Committee No. 1, submitted the following report :

*Hon. R. B. Hubbard, President of the Senate :*

Your Judiciary Committee No. 1, to whom was referred House Bill No. 285, entitled, "An Act to amend Article 3, Section 3; Article 5, Section 5; Article 6, Section 6; Article 7, Section 7; Article 14, Section 14; Article 20, Section 20; Article 23, Section 23; Article 24, Section 24; Article 31, Section 31; Article 32, Section 32; Article 33, Section 33; Article 34, Section 34; and Article 47, Section 47, of 'An Act to consolidate in one act and amend the several acts incorporating the city of Houston,' passed January 23, 1874," have had the same under consideration, and beg leave to report it back with the accompanying amendments, and, as amended, recommend that it do pass.

F. M. HENRY, *for Committee.*

Amend the caption of the bill, and the bill itself, by striking out the word, "Article," and the number thereof, wherever they may occur.

Strike out in the caption the words and figures, "Section 47."

Amend Section 5, in line 7, by adding after the word, "taxes," the words, "Street Commissioner;" also, in line 15, after, "taxes," insert the words, "Street Commissioner."

Amend Section 6 by adding to the end of the section the following :  
"The City Council shall require the City Engineer, Health Officer, and such other officers or agents of said city as it may deem proper, to give good and sufficient bond, with approved security, for the faithful performance of his duty, in such sum as it may prescribe."

Amend Section 7, line 10, by striking out the words, "five dollars for every meeting of the City Council attended by him," after the word, "Alderman," and insert the words, "shall be an office of honor, and shall serve without pay."

In same section, line 15, strike out the words, "two thousand five hundred dollars," after the word, "Treasurer," and insert, "eighteen hundred dollars; Street Commissioner, fifteen hundred dollars."

Strike out all of Section 13, and number the sections following to correspond.

Senator Edwards, from Committee on Engrossed Bills, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Engrossed Bills have carefully compared and examined Senate Bill No. 303, entitled, "An Act for the relief of railroad and other internal improvement companies," and find the same correctly engrossed.

EDWARDS, for Committee.

The Senate went into executive session.

IN SENATE.

The Secretary was instructed to inform His Excellency, the Governor, that the Senate does advise and consent to all his appointments of Notaries Public in his message of the 18th inst.

The following House Bills, on the President's table, were taken up and referred to appropriate committees:

House Bill No. 233—"An Act prescribing the times of holding the District Courts in the Second Judicial District."

Referred to Judiciary Committee No. 1.

House Bill No. 290—"An Act to amend an act entitled, 'An Act supplementary to an act entitled, "An Act to create the county of Ellis,"' approved January 28, 1850."

Referred to Committee on Counties and County Boundaries.

Senator Guy introduced a bill to be entitled, "An Act making an appropriation to defray the contingent expenses of the first session of the Fifteenth Legislature."

Referred to the Committee on Finance.

On motion of Senator Storey, the rules were suspended, and House Bill No. 69, "An Act to provide for the election of Justices of the Peace, and to define their powers and jurisdiction," was taken up and fifty copies of the bill, with the report and amendments of the committee, ordered printed.

Senator Wortham, from the Committee on Engrossed Bills, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Engrossed Bills have carefully read, examined and compared Senate Bill No. 217, "An Act to encourage stock raising, and for the protection of stock raisers," and find the same correctly engrossed.

WORTHAM, for Committee.

Senator Grace, Chairman of the Committee on Enrolled Bills, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Enrolled Bills have carefully examined, compared and found correctly enrolled, Senate Bill No. 193; entitled, "An Act to provide for settlements in certain cases with the Comptroller of Public Accounts by Sheriffs and other persons entrusted with the collection of taxes." The same has been properly signed and presented to the Governor, this day, at 9:25 o'clock A. M., for his approval.

GRACE, Chairman.

The President, after reading their captions, signed Senate Bill No. 193, "An Act to provide for settlements with the Comptroller of Public Accounts by Sheriffs and other persons entrusted with the collection of taxes."

Also, House substitute for Senate Bill No. 84, "An Act to regulate the laying out, opening, and classifying and working of public roads in the State of Texas, and fixing penalties for a violation of certain sections therein named."

Senator Storey moved to suspend the rule and take up Senate Bill No. 126, "An Act to fix the time of holding the biennial sessions of the Legislature of the State of Texas."

The Senate refused to suspend the rule.

Senate Bill No. 262, "An Act to reserve from location, in the event of forfeiture, the public domain now reserved for the benefit of railroads or railroad companies," being the first special order, was taken up.

Senator Crain offered the following amendment:

Amend Section 1 by striking out all after the word, "location," in line 8.

Adopted by the following vote:

YEAS—Senators Brown, Burton, Crain, Edwards, Grace, McLeary, McCormick, McCulloch, Motley, Smith, Stephens, Storey, Terrell, Thompson—14.

NAYS—Senators Ball, Blassingame, Brady, Douglass, Guy, Henry J. R., Henry F. M., Ledbetter, Martin, Moore, Piner, Ripetoe, Wortham—13.

NOT VOTING—Senators Francis, Ford, Hobby—3.

Senator Hobby in the chair.

Senator Piner moved to refer the bill to Judiciary Committee No. 1.

Lost, by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Douglass, Edwards, Guy, Henry J. R., Henry F. M., Hobby, Martin, Moore, Piner, Ripetoe, Wortham—14.

NAYS—Senators Brown, Burton, Crain, Ford, Grace, Ledbetter, McLeary, McCormick, McCulloch, Motley, Smith, Storey, Terrell, Thompson—14.

NOT VOTING—Senators Francis, Stephens—2.

Senator Crain offered the following amendment:

Amend Section 1 by inserting after the word, "location," in line 5, the words, "one-half thereof to be specially reserved for the support of public free schools of the State."

Senator Ball offered the following as a substitute for Senator Crain's amendment:

Add to Section 1 the following: "Except to actual settlers under the pre-emption laws of this State; and whenever a pre-emption survey of one hundred and sixty acres, or if eighty, shall be made for any settler, a like quantity shall be made adjoining said pre-emption survey for the public free school fund of Texas. The settler having the pre-emption survey made shall pay to the Surveyor both the fees for the pre-emption survey and the one for the school fund; and, also, the fees for recording the field notes of both surveys, and said field notes shall be returned to the General Land Office together."

The substitute of Senator Ball was accepted by Senator Crain.

Senator Edwards moved the previous question on the amendment.



Seconded, and the main question ordered.

The substitute was adopted, by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Burton, Crain, Edwards, Francis, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, McCulloch, Moore, Motley, Piner, Ripetoe, Smith, Stephens, Storey, Terrell, Thompson—28.

NAYS—Senators Douglass, Wortham—2.

Senator Ball moved that the bill be postponed until Tuesday next, and made the special order for 10 o'clock A. M. on that day, and from day to day until disposed of.

Senator Brady moved the previous question, which was seconded.

The main question was not ordered, by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Douglass, Edwards, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, Moore, Piner, Ripetoe, Wortham—15.

NAYS—Senators Brown, Burton, Crain, Francis, Ford, Grace, McLeary, McCormick, McCulloch, Motley, Smith, Stephens, Storey, Terrell Thompson—15.

The President in the chair.

Senator Terrell offered the following amendment:

Insert in line 3, after the word, "law," the following words, "and the right to which reservation has lapsed since January 1, 1872, or may hereafter lapse."

Adopted by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Burton, Crain, Edwards, Francis, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Martin, McLeary, McCormick, McCulloch, Moore, Motley, Piner, Ripetoe, Stephens, Storey, Terrell, Thompson, Wortham—27.

NAYS—Senator Douglass—1.

NOT VOTING—Senators Ledbetter, Smith—2.

Senator Ball offered the following amendment:

In Section 1, line 4, insert after the word, "forfeiture," the words, "by a decree of a court of competent jurisdiction."

Senator Ball withdrew his amendment, and offered the following:

In Section 1, line 3, after the word, "declared," insert the word, "then;" strike out the word, "be," after the word, "to," in line 3, and insert the words, "have been;" in line 4, after the word, "forfeiture," insert the words, "by a decree of a court of competent jurisdiction."

Senator Crain offered the following as a substitute for Senator Ball's amendment:

Add to Section 1, the following: "*Provided*, that this act shall not be considered as a legislative declaration of forfeiture of any charter, land grant, donation or reservation of any railroad company: *and provided*, *further*, that no certificates shall be located in said reservations before a judicial declaration of forfeiture may be made, nor afterwards, except in accordance with future legislative enactments."

Pending which, on motion of Senator Smith, the Senate adjourned until Monday morning at 9 o'clock, by the following vote:

YEAS—Senators Brown, Burton, Crain, Ford, Grace, Guy, McLeary, McCormick, McCulloch, Ripetoe, Smith, Stephens Storey, Terrell, Thompson—15.

NAYS—Senators Ball, Blassingame, Brady, Edwards, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, Moore, Motley, Piner, Wortham—13.